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8                   **UNITED STATES DISTRICT COURT**  
9                   **CENTRAL DISTRICT OF CALIFORNIA**  
10                  **EASTERN DIVISION**

10     KELI PARKER, an individual,  
11                   Plaintiff,  
12                  vs.  
13     PETERS & FREEDMAN, LLP; AND  
14     DISCOVERY AT CORTEZ HILL  
15     HOMEOWNERS ASSOCAITON,  
16                  Defendants.

10                  **Case No.:**

11                  **COMPLAINT AND DEMAND FOR**  
12                  **JURY TRIAL**

- 13                  1. **FDCPA, 15 U.S.C. § 1692 *et seq.*;**  
14                  and  
15                  2. **CAL. CIV. CODE § 1788 *et seq.***  
16                  (**Unlawful Debt Collection Practices**)

17  
18                  **COMPLAINT AND DEMAND FOR JURY TRIAL**

19  
20                  **INTRODUCTION**

- 21                  1. Plaintiff Keli Parker (“Plaintiff”), by and through her attorneys, brings this action  
22                  to secure redress from unlawful debt collection practices engaged in by  
23                  Defendants Peters and Freedman, LLP (“P&F”) and Discovery at Cortez Hill  
24                  Homeowners Association (“Discovery”). Specifically, Plaintiff alleges violations  
25                  of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 *et seq.* (“FDCPA”)

1 and the Rosenthal Fair Debt Collection Practices Act, CAL. CIV. CODE § 1788  
2 *et seq.* (“RFDCPA”).  
3

4 **VENUE AND JURISDICTION**  
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- 6 2. Jurisdiction of this Court arises pursuant to 15 U.S.C. § 1692k(d), which states  
7 that such actions may be brought and heard before “any appropriate United  
8 States district court, without regard to the amount in controversy.” The Court  
9 has jurisdiction over the state law claims pursuant to 15 U.S.C. § 1367.  
10 3. Venue is proper pursuant to 28 U.S.C. § 1333(b)(2) as the events described in  
11 this complaint took place within this district.  
12

13 **PARTIES**  
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- 15 4. Plaintiff Keli Parker is a natural person who resides in City of Irvine, County of  
16 Orange, California.  
17 5. Plaintiff is a “consumer” as defined by the FDCPA, 15 U.S.C. § 1692a(3).  
18 6. Defendants are “debt collectors” as defined by the FDCPA, 15 U.S.C. § 1692a(6).  
19 7. Defendants are “debt collectors” as defined by CAL. CIV. CODE 1788.2(c).  
20 8. Defendant, Peters & Freedman, LLP, is a California Limited Liability Partnership  
21 with its address at 191 Calle Magdalena, Suite 220, Encinitas, CA 92024.  
22 9. Defendant, Discovery at Cortez Hill Homeowners Association, is a California  
23 Non-Profit Mutual Benefit Corporation with its address at 15241 Laguna Canyon  
24 Road, Irvine, CA 92618.  
25 10. Defendant Discovery can be served through its agent, Saltarelli Law Corporation,  
26 at 100 Bayview Circle, Suite 500, Newport Beach, CA 92660.  
27  
28

11. Defendants are entities which engaged in the practice of collecting consumer debt and therefore are “debt collectors” under the FDCPA, 15 U.S.C. § 1692a-(6), as well as the RFDCPA, CAL. CIV. CODE § 1788.2(c).

12. Defendants acted through their agents, employees, officers, members, directors, heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives and insurers.

13. Plaintiff is informed and believes, and on that basis, alleges that Defendants are responsible for the acts, occurrences and transactions as officers, directors or managing agents of Defendants, or as their agents, servants, employees, and that each of them are legally liable to Plaintiff, as set forth below.

## **FACTUAL ALLEGATIONS COMMON TO ALL COUNTS**

14. On or about September 17, 2004, Plaintiff took title to a condo ("Property") in San Diego, CA.

15. Plaintiff was responsible for paying HOA dues (“Account”) monthly, which were assessed by Discovery.

16. In or around April 2007, Plaintiff began experiencing financial troubles.

17. On or about October 2, 2007, Plaintiff filed Chapter 7 Bankruptcy.

18. The Account was listed on Plaintiff's Schedule D.

19. Shortly thereafter, Defendant Discovery was sent notice of Plaintiff's Bankruptcy.

20. Plaintiff's Bankruptcy was discharged on January 7, 2008, including all HOA dues prior to January 2008.

21. Shortly after Plaintiff's bankruptcy her property went into foreclosure.

22. Defendant Discovery filed a lien against the property on January 14, 2008 for HOA dues and fees.

23. The foreclosure Trustee sold Plaintiff's Property in or around July 10, 2008.

- 1       24. Upon information and belief, Discovery was reimbursed for its lien for HOA dues  
2           and fees through January 14, 2008.
- 3       25. Despite the Account being partially discharged, the lien paid, and Plaintiff no  
4           longer owning the Property, Defendant Discovery continued collection efforts  
5           for an amount not owed by Plaintiff.
- 6       26. Plaintiff was only responsible for the HOA dues that accrued from January 2008  
7           through July 2008 totaling \$5,056.61.
- 8       27. Discovery, through P&F, filed suit May 9, 2012, one month prior to the statute  
9           of limitations expiring.
- 10      28. The suit was dismissed on November 15, 2012.
- 11      29. Yet, Discovery, through P&F, filed a subsequent lawsuit, **after the statute of**  
12           **limitations**, against Plaintiff on May 9, 2013, alleging an unlawful amount owed  
13           of \$15,363.95.
- 14      30. Sometime thereafter, Defendant Discovery obtained an unlawful **Default**  
15           judgment against Plaintiff.
- 16      31. Defendants, armed with their unlawful judgment, garnished Plaintiff's bank  
17           account on August 17, 2016, for \$1,098.86.
- 18      32. The unlawful garnishment caused Plaintiff to overdraft her account resulting in  
19           humiliation because her credit card and car loan went unpaid for **THIRTEEN**  
20           (13) days.
- 21      33. Plaintiff, having recovered from her financial hardship in 2007, was shocked to  
22           learn of the judgment following her bankruptcy.
- 23      34. Defendant P&F's actions caused Plaintiff to incur overdraft fees and late payment  
24           fees.
- 25      35. Plaintiff was forced to use credit cards to pay for food and gas while Defendant  
26           unlawfully retained her money.

36. Plaintiff did not gain access to the unlawfully garnished funds until August 30, 2016, when P&F reversed the garnishment.

37. However, P&F did not reverse \$125 of the \$1,098.86 because they claimed the amount as legal fees for initiating the garnishment.

38. Defendants' conduct has caused Plaintiff a great amount of mental stress.

39. As a result of Defendants' conduct, Plaintiff has suffered actual damages and, out-of-pocket expenses including, but not limited to, local or long distance telephone charges, postage, faxing and other related costs, all of which will continue into the future to Plaintiff's great detriment and loss.

**COUNT I – FIRST CLAIM FOR RELIEF**

**DEFENDANT PETERS & FREEDMAN VIOLATED THE FAIR DEBT  
COLLECTION PRACTICES ACT, (FDCPA), 15 U.S.C. §1692 *et. seq.***

40. Plaintiff incorporates the foregoing paragraphs as though the same were set forth at length herein.

41.15 U.S.C. § 1692d states that “[a] debt collector may not engage in any conduct the natural consequence of which is to harass, oppress, or abuse any person in connection with the collection of a debt.

42. 15 U.S.C. § 1692e states that “[a] debt collector may not use any false, deceptive, or misleading representation or means in connection with the collection of any debt.”

43. Defendant violated § 1692d by garnishing Plaintiff's bank account, the natural consequence of which was to harass Plaintiff

44. Defendant violated § 1692e(2)(A) by falsely representing the amount of the debt.

45. Defendant violated § 1692e(10) by using false representations or deceptive means to collect or attempt to collect the debt.

46. Plaintiff did not owe the entirety of debt because it was partially discharged in bankruptcy.

1       47. Defendant's acts were done intentionally to induce Plaintiff to pay a debt she did  
2                  not owe.

3       48. Defendant was aware that Plaintiff entered into, and was discharged, from  
4                  bankruptcy.

5       49. As a result of the foregoing violations of the FDCPA, Defendant is liable to  
6                  Plaintiff under 15 U.S.C. § 1692k for actual damages, statutory damages, and  
7                  attorney's fees and costs.

8                  **COUNT II – SECOND CLAIM FOR RELIEF**

9                  **ALL DEFENDANTS VIOLATED THE ROSENTHAL FAIR DEBT  
10                  COLLECTION PRACTICES ACT, (RFDCPA), CAL. CIV. CODE § 1788 *et  
seq.***

11       50. Plaintiff incorporates the foregoing paragraphs as though the same were set forth  
12                  at length herein.

13       51. California Civil Code § 1788.10(e) states that no debt collector shall collect or  
14                  attempt to collect a consumer debt by means of threat to any person that  
15                  nonpayment of the consumer debt may result in the arrest of the debtor or the  
16                  seizure, **garnishment**, attachment or sale of any property or the garnishment or  
17                  attachment of wages of the debtor, unless such action is in fact contemplated by  
18                  the debt collector and permitted by the law.

19       52. Defendants violated § 1788.10(e) by garnishing Plaintiff's bank account for an  
20                  amount they were not entitled to.

21       53. California Civil Code § 1788.10(f) states that a debt collector may not make a  
22                  threat to take any action against debtor which is prohibited by the RFDCPA.

23       54. California Civil Code § 1788.17 states that every debt collector collecting or  
24                  attempting to collect a consumer debt shall comply with the FDCPA, 15 U.S.C.  
25                  § 1692b-j, inclusive, and shall be subject to the remedies of § 1692k therein.

26       55. Defendant P & F violated § 1788.17 by harassing Plaintiff in its efforts to collect  
27                  on the debt.

56. Defendants willfully and knowingly violated the RFDCPA when it attempted to collect a debt from Plaintiff that was misrepresented and partly discharged in bankruptcy.

57. Defendants willfully and knowingly violated the RFDCPA when they filed a lawsuit against Plaintiff for an amount not legally owed and after the statute of limitations expired.

58. As a result of the foregoing violations of the RFDCPA, Defendant is liable to Plaintiff under CAL. CIV. CODE § 1788.30 for actual damages, statutory damages, and attorney's fees and costs.

## **PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiff respectfully prays that judgment be entered against

Defendants for the following:

- A. Actual damages pursuant to 15 U.S.C. § 1692k(a)(1) and CAL. CIV. CODE § 1788.30(a);
  - B. Statutory damages of \$1000.00 pursuant to the Fair Debt Collections Practices Act, 15 U.S.C. § 1692k(a)(2);
  - C. Statutory damages of \$1000.000 pursuant to the Rosenthal Fair Debt Collections Practices Act, CAL. CIV. CODE § 1788.30(b);
  - D. Punitive damages;
  - E. Costs and reasonable attorney's fees pursuant to 15 U.S.C. § 1692k, and CAL. CIV. CODE § 1788.30; and
  - F. Such other and further relief as the Court deems proper.

## **DEMAND FOR JURY TRIAL**

1 PLEASE TAKE NOTICE that Plaintiff, Keli Parker, demands trial by jury in this  
2 action.  
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4 RESPECTFULLY SUBMITTED,  
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6 DATED: April 6, 2017  
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COMPLAINT